

17-21-1 (Effective 07/01/15). Recorder -- Document custody responsibility
-- Electronic submission procedures and guidelines.

The county recorder:

(1) is custodian of all recorded documents and records required by law to be recorded;

(2) shall establish policies and procedures that the recorder considers necessary to protect recorded documents and records in the recorder's custody, including determining the appropriate method for the public to obtain copies of the public record under Section 17-21-19 and supervision of those who search and make copies of the public record;

(3) may establish procedures and guidelines to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with Title 46, Chapter 4, Uniform Electronic Transactions Act, and Chapter 21a, Uniform Real Property Electronic Recording Act; and

(4) shall establish procedures to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with standards established under Chapter 21a, Uniform Real Property Electronic Recording Act, by:

(a) if in a county of the first or second class, July 1, 2016;

(b) if in a county of the third or fourth class, July 1, 2017; or

(c) if in a county of the fifth or sixth class, July 1, 2018.

Amended by Chapter 89, 2014 General Session

17-21-18.5 (Effective 07/01/15). Fees of county recorder.

(1) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, \$10;

(b) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, \$10 for the first page and \$2 for each additional page, and if an instrument contains more than one description, \$1 for each additional description;

(c) for recording a right-of-way connected with or appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if an instrument contains more than two names for either the first or second party, or the plaintiffs or defendants, \$1 for each additional name;

(d) for recording mining location notices and affidavits of labor affecting mining claims, \$10 for the first page and \$2 for each additional page; and

(e) for a location notice, affidavit, or proof of labor which contains names of more than two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains more than one mining claim, \$1 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, \$5;

(c) for recording any plat, \$30 for each sheet and \$1 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for each additional name;

(e) for recording any license issued by the Division of Occupational and Professional Licensing, \$10; and

(f) for recording a federal tax lien, \$10, and for the discharge of the lien, \$10.

(4) (a) For recording a document that is subject to and complies with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq. for a residential property constructed for at least one family but no more than four families, the county recorder shall receive:

(i) \$14 for each deed of conveyance;

(ii) \$40 for each deed of trust; and

(iii) \$14 for each assignment of a deed of trust when recorded concurrently with the assigned deed of trust.

(b) If a person submits for recording a document described in Subsection (4)(a), the person shall notify the county recorder by including the word "RESPA" in at least 16 point font on the front page of each document.

(c) A county recorder is not required to:

(i) refund a fee described in Subsection (4)(a); or

(ii) change a fee amount shown on a recorded document if the fee described in Subsection (4)(a) is not collected at the time of recording.

(d) A county recorder may examine a document recorded under this Subsection (4) for compliance with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq.

(5) In addition to any other fee that the county recorder is authorized to charge and collect, if a county recorder is required to comply with the standards established under Chapter 21a, Uniform Real Property Electronic Recording Act, the county recorder may charge and collect from a person who submits an electronic document, as defined in Section 17-21a-102, for recording, a surcharge that:

(a) is calculated to recover the additional costs of complying with Chapter 21a, Uniform Real Property Electronic Recording Act; and

(b) may not exceed 10% of the cost before the surcharge.

(6) The county may determine and collect a fee for all services not enumerated in this section.

(7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Amended by Chapter 89, 2014 General Session

17-21-20 (Effective 07/01/15). Recording required -- Recorder may impose requirements on documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents -- Recorder may require tax serial number --

Exceptions -- Requirements for recording final local entity plat.

(1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument required by law to be recorded in the office of the county recorder shall be recorded unless otherwise provided.

(2) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

(a) unless otherwise provided by law, be an original or certified copy of the document;

(b) be in English or be accompanied by an accurate English translation of the document;

(c) contain a brief title, heading, or caption on the first page stating the nature of the document;

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document;

(e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1) and (2);

(f) except as otherwise provided by statute, be notarized with the notary stamp with the seal legible; and

(g) have original signatures.

(3) (a) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

(i) be on white paper that is 8-1/2 inches by 11 inches in size;

(ii) have a margin of one inch on the left and right sides and at the bottom of each page;

(iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner of the first page and a margin of one inch at the top of each succeeding page;

(iv) not be on sheets of paper that are continuously bound together at the side, top, or bottom;

(v) not contain printed material on more than one side of each page;

(vi) be printed in black ink and not have text smaller than seven lines of text per vertical inch; and

(vii) be sufficiently legible to make certified copies.

(b) A county recorder who intends to establish requirements under Subsection (3)(a) shall first:

(i) provide formal notice of the requirements; and

(ii) establish and publish an effective date for the requirements that is at least three months after the formal notice under Subsection (3)(b)(i).

(c) If a county recorder establishes requirements under this Subsection (3), the county recorder may charge and collect from persons who submit a document for recording that does not comply with the requirements, in addition to any other fee that the county recorder is authorized to charge and collect, a fee that:

(i) is calculated to recover the additional cost of handling and recording noncomplying documents; and

(ii) may not exceed \$2 per page.

(4) (a) To facilitate the abstracting of an instrument, a county recorder may

require that the applicable tax serial number of each parcel described in the instrument be noted on the instrument before it may be accepted for recording.

(b) If a county recorder requires the applicable tax serial number to be on an instrument before it may be recorded:

(i) the county recorder shall post a notice of that requirement in a conspicuous place at the recorder's office;

(ii) the tax serial number may not be considered to be part of the legal description and may be indicated on the margin of the instrument; and

(iii) an error in the tax serial number does not affect the validity of the instrument or effectiveness of the recording.

(5) Subsections (2), (3), and (4) do not apply to:

(a) a map;

(b) a certificate or affidavit of death;

(c) a military discharge;

(d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;

(e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or

(f) a document submitted for recording that is in a form required by law.

(6) (a) As used in this Subsection (6):

(i) "Boundary action" has the same meaning as defined in Section 17-23-20.

(ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(b) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:

(i) the plat has been approved under Section 17-23-20 by the county surveyor as a final local entity plat, as defined in Section 17-23-20; and

(ii) the person also submits for recording:

(A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;

(B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and

(C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.

(c) Promptly after recording the documents described in Subsection (6)(b) relating to a boundary action, but no later than 10 days after recording, the county recorder shall send a copy of all those documents to the State Tax Commission.

Amended by Chapter 89, 2014 General Session

17-21a-101 (Effective 07/01/15). Title.

(1) This chapter is known as the "Uniform Real Property Electronic Recording Act."

(2) This part is known as "General Provisions."

Enacted by Chapter 89, 2014 General Session

17-21a-102 (Effective 07/01/15). Definitions.

As used in this chapter:

- (1) "Commission" means the Utah Electronic Recording Commission established in Section 17-21a-302.
- (2) "Document" means information that is:
 - (a) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
 - (b) eligible to be recorded in the land records maintained by the county recorder.
- (3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (4) "Electronic document" means a document that is received by the county recorder in an electronic form.
- (5) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.
- (6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Enacted by Chapter 89, 2014 General Session

17-21a-201 (Effective 07/01/15). Title.

This part is known as "Electronic Documents."

Enacted by Chapter 89, 2014 General Session

17-21a-202 (Effective 07/01/15). Validity of electronic documents.

- (1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.
- (2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.
- (3) (a) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature.
- (b) A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

Enacted by Chapter 89, 2014 General Session

17-21a-203 (Effective 07/01/15). Recording of documents.

(1) As used in this section, "paper document" means a document that is received by the county recorder in a form that is not electronic.

(2) A county recorder:

(a) who implements any of the functions listed in this section shall do so in compliance with standards established by the Utah Electronic Recording Commission created in Section 17-21a-301;

(b) may receive, index, store, archive, and transmit electronic documents;

(c) may provide for access to, and for search and retrieval of, documents and information by electronic means;

(d) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(e) may convert paper documents accepted for recording into electronic form;

(f) may convert into electronic form information recorded before the county recorder began to record electronic documents;

(g) may accept electronically any fee that the county recorder is authorized to collect; and

(h) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

Enacted by Chapter 89, 2014 General Session

17-21a-301 (Effective 07/01/15). Title.

This part is known as "Administration and Standards."

Enacted by Chapter 89, 2014 General Session

17-21a-401 (Effective 07/01/15). Title.

This part is known as "Relationship to Other Laws."

Enacted by Chapter 89, 2014 General Session

17-21a-402 (Effective 07/01/15). Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Enacted by Chapter 89, 2014 General Session

17-21a-403 (Effective 07/01/15). Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

Enacted by Chapter 89, 2014 General Session

17-41-101 (Effective 01/01/15). Definitions.

As used in this chapter:

- (1) "Advisory board" means:
 - (a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201; and
 - (b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201.
- (2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.
 - (b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.
- (3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.
- (4) "Applicable legislative body" means:
 - (a) with respect to a proposed agriculture protection area or industrial protection area:
 - (i) the legislative body of the county in which the land proposed to be included in an agriculture protection area or industrial protection area is located, if the land is within the unincorporated part of the county; or
 - (ii) the legislative body of the city or town in which the land proposed to be included in an agriculture protection area or industrial protection area is located; and
 - (b) with respect to an existing agriculture protection area or industrial protection area:
 - (i) the legislative body of the county in which the agriculture protection area or industrial protection area is located, if the agriculture protection area or industrial protection area is within the unincorporated part of the county; or
 - (ii) the legislative body of the city or town in which the agriculture protection area or industrial protection area is located.
- (5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- (6) "Crops, livestock, and livestock products" includes:
 - (a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:
 - (i) forages and sod crops;
 - (ii) grains and feed crops;
 - (iii) livestock as defined in Section 59-2-102;
 - (iv) trees and fruits; or

- (v) vegetables, nursery, floral, and ornamental stock; or
- (b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(7) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(8) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(9) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2009:

- (a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

- (b) has produced commercial quantities of a mineral deposit from the mining use.

(10) "Mineral deposit" has the same meaning as defined in Section 40-8-4, but excludes:

- (a) building stone, decorative rock, and landscaping rock; and

- (b) consolidated rock that:

- (i) is not associated with another deposit of minerals;

- (ii) is or may be extracted from land; and

- (iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

(11) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(12) "Mining use":

- (a) means:

- (i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

- (ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (12)(a)(i) that have been, are being, or will be conducted; and

- (b) includes, whether conducted on-site or off-site:

- (i) any sampling, staking, surveying, exploration, or development activity;

- (ii) any drilling, blasting, excavating, or tunneling;

- (iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

- (iv) any removal, transportation, extraction, beneficiation, or processing of ore;

- (v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

- (vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

- (vii) a mining activity that is identified in a work plan or permitting document;

- (viii) the use, operation, maintenance, repair, replacement, or alteration of a

building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility;
and

(xi) any activity described in Subsection 40-8-4(14)(a).

(13) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(14) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether or not that land or mineral estate is included in the mine operator's large mine permit.

(15) "Off-site" has the same meaning as provided in Section 40-8-4.

(16) "On-site" has the same meaning as provided in Section 40-8-4.

(17) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within the unincorporated part of the county and not within a township;

(b) a township planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within a township; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area or industrial protection area is within a city or town.

(18) "Political subdivision" means a county, city, town, school district, local district, or special service district.

(19) "Proposal sponsors" means the owners of land in agricultural production or industrial use who are sponsoring the proposal for creating an agriculture protection area or industrial protection area, respectively.

(20) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Unincorporated" means not within a city or town.

(22) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Amended by Chapter 65, 2014 General Session